

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 201903963	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/08/2019 6:00 PM	Location of Incident: in front of the § 87(2)(b) [REDACTED] § 87(2)(b) [REDACTED]	Precinct: 73	18 Mo. SOL 11/8/2020	EO SOL 6/25/2021	
Date/Time CV Reported Thu, 05/09/2019 8:21 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/09/2019 8:21 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Huseyin Kahveci	22896	960739	073 PCT
2. POM Vickram Manni	11404	942865	073 PCT
3. POM Christophe Kalinowski	22920	962515	073 PCT
4. POM Matthew Bottcher	21926	962266	073 PCT
5. An officer			073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Kyanna Simon	13401	966852	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Huseyin Kahveci	Force: Police Officer Huseyin Kahveci used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Matthew Bottcher	Force: Police Officer Matthew Bottcher used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Christophe Kalinowski	Force: Police Officer Christopher Kalinowski used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Vickram Manni	Force: Police Officer Vickram Manni used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Matthew Bottcher	Force: An officer restricted § 87(2)(b) [REDACTED]'s breathing.	[REDACTED]
F. An officer	Abuse: An officer threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Christophe Kalinowski	Abuse: Police Officer Christopher Kalinowski threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
H.POM Huseyin Kahveci	Discourtesy: Police Officer Huseyin Kahveci acted discourteously toward § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.POM Matthew Bottcher	Abuse: Police Officer Matthew Bottcher refused to provide his name to § 87(2)(b)	
J.POM Matthew Bottcher	Abuse: Police Officer Matthew Bottcher refused to provide his shield number to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On May 9, 2019, § 87(2)(b) filed the following complaint with the CCRB by phone on behalf of her son, § 87(2)(b) § 87(2)(b) stepfather, § 87(2)(b) provided a statement to the Intake Investigator, as he was present during the incident and § 87(2)(b) was not.

On May 8, 2019, at approximately 6:00 p.m., EMT § 87(2)(b) § 87(2)(b) and EMT § 87(2)(b) § 87(2)(b) responded to a radio call involving § 87(2)(b) at the § 87(2)(b) located at § 87(2)(b) in Brooklyn. § 87(2)(b) was also on scene. § 87(2)(b) began to cut himself with a piece of glass, and the EMTs called for NYPD. PO Huseyin Kahveci, PO Matthew Bottcher, PO Christopher Kalinowski, PO Vickram Manni, and PO Kyanna Simon, all from the 73rd Precinct, responded to the scene. PO Kahveci, PO Bottcher, PO Kalinowski, and PO Manni entered the ambulance and attempted to restrain § 87(2)(b) who resisted. Two officers grabbed § 87(2)(b) by his biceps, picked up his legs, and attempted to handcuff him (**Allegations A through D: Force;** § 87(2)(g) and § 87(2)(g)). At one point during the struggle, PO Bottcher pushed § 87(2)(b) face against the ambulance bench, which allegedly restricted his breathing (**Allegation E: Force;** § 87(2)(g)). They then handcuffed § 87(2)(b) securing him to a stretcher inside the ambulance.

As this was going on, § 87(2)(b) stood outside the ambulance and recorded the officers. At one point, an officer allegedly told him, “Back up, get out the way, don’t interfere or you could get locked up.” (**Allegation F: Abuse of Authority;** § 87(2)(g)). PO Kalinowski later told § 87(2)(b) that he would be arrested for obstruction of government administration (**Allegation G: Abuse of Authority;** § 87(2)(g)). Once the officers left the ambulance, § 87(2)(b) asked all the officers for their business cards. PO Kahveci allegedly held his business card a couple of inches above § 87(2)(b)s head (**Allegation H: Discourtesy;** § 87(2)(g)). § 87(2)(b) then asked PO Bottcher for his name and shield number, which he did not provide (**Allegations I and J: Abuse of Authority;** § 87(2)(g) § 87(2)(b) was removed to § 87(2)(b) in Brooklyn.

§ 87(2)(b) provided cellphone footage he took of the incident [BR01, BR02, and BR03, respectively]. Body-worn camera (BWC) footage from PO Kahveci, PO Bottcher, PO Kalinowski, and PO Manni was also obtained by the investigation [BR04 through BR10, respectively]. § 87(4-b) § 87(2)(g)

Findings and Recommendations

Allegation (A) Force: Police Officer Huseyin Kahveci used physical force against § 87(2)(b).

Allegation (B) Force: Police Officer Matthew Bottcher used physical force against § 87(2)(b).

Allegation (C) Force: Police Officer Christopher Kalinowski used physical force against § 87(2)(b).

Allegation (D) Force: Police Officer Vickram Manni used physical force against § 87(2)(b).

Allegation (E) Force: Police Officer Bottcher restricted § 87(2)(b)s breathing.

It is undisputed that PO Kahveci, PO Bottcher, PO Kalinowski, and PO Manni all used force against § 87(2)(b) while attempting to restrain him. § 87(2)(g)

§ 87(2)(b) testified that EMS was called for him after his ELA instructor, § 87(2)(b) observed that he had self-cut his arms. EMT § 87(2)(b) and EMT § 87(2)(b) arrived on scene and escorted him to the ambulance outside. § 87(2)(b) had a piece of glass, which he used to cut himself, in his pocket. Once outside, § 87(2)(b) saw his stepfather, § 87(2)(b) § 87(2)(b) was directed into the ambulance and sat inside for about five minutes. While inside the ambulance, § 87(2)(b) cut his arms with the piece of glass inside his pocket. EMT § 87(2)(b)

entered the ambulance and told § 87(2)(b) to give him the piece of glass, which he refused to do. EMT § 87(2)(b) then called over his radio that § 87(2)(b) possessed a weapon and was being resistant. Approximately ten minutes later, three police vehicles arrived. § 87(2)(b) was approached by PO Kahveci, PO Bottcher, PO Kalinowski, and PO Manni. § 87(2)(b) told the officers to back away from him, to which they responded that they would once he sat down on the bench inside the ambulance. § 87(2)(b) refused and told the officers that he would sit down once they backed away. After three minutes of refusing to sit, an officer grabbed § 87(2)(b) by his bicep. § 87(2)(b) pulled his arm out of the officer's grasp. He was then pushed from behind by one of the officers. An officer then grabbed the back of his head and pushed his face into the bench. § 87(2)(b) began to "jerk" his body around. The officers picked up his legs and placed their knees on his back and legs. § 87(2)(b) had difficulty breathing during this. One officer then pulled § 87(2)(b) hands behind his back to handcuff him, and § 87(2)(b) began to move his hands. PO Kahveci then punched him two to three times in the ribs. § 87(2)(b) was then handcuffed and strapped to the bench in the ambulance [BR11].

According to the Event Information, the radio call was received as an emotionally disturbed person (EDP) with a weapon, who was trying to cut himself [BR12].

EMT § 87(2)(b) testified that he and EMT § 87(2)(b) responded to the scene, where they escorted § 87(2)(b) to the ambulance and strapped him to a bench inside. EMT § 87(2)(b) then went to speak with § 87(2)(b) while doing so, § 87(2)(b) retrieved a piece of glass from either his mouth or pocket and began to cut his arm. Both EMT § 87(2)(b) and EMT § 87(2)(b) ordered § 87(2)(b) to give them the glass several times, which § 87(2)(b) initially refused to do. EMT § 87(2)(b) called 911 in response. He stated that § 87(2)(b) eventually gave the glass to EMT § 87(2)(b) after one of his requests. When NYPD officers arrived on scene, EMT § 87(2)(b) informed them that § 87(2)(b) had cut himself with a piece of glass and did not know if he had any more dangerous objects on his person. Four officers then entered the ambulance. EMT § 87(2)(b) heard one officer tell § 87(2)(b) "Work with us, and we won't have to put you in cuffs" and asked if he had any glass or other weapons on him. § 87(2)(b) did not respond. § 87(2)(b) was seated but did not have his seatbelt fastened. An officer attempted to pat down § 87(2)(b) who pushed the officer's hands away. Two officers each grabbed one of § 87(2)(b) arms and the two other officers grabbed his legs. EMT § 87(2)(b) stopped observing the scene inside the ambulance, but heard § 87(2)(b) say, "Why did you punch me?" He did not see any officer punch § 87(2)(b). He saw one officer place his knees on § 87(2)(b) back and one officer grab him by the neck, but he did not know which officer did this. § 87(2)(b) was eventually handcuffed and placed on a stretcher. Two officers exited the ambulance and two remained inside with § 87(2)(b) [BR13]. EMT § 87(2)(b) § 87(2)(g) did not see any officer use force. He testified that he informed the officers that § 87(2)(b) had a piece of glass on him when they arrived on scene [BR14].

PO Kahveci has resigned from the NYPD, § 87(2)(g) [BR15]. The ISAR report prepared by Captain Hugo Dominguez of the 73rd Precinct reported that PO Kahveci informed him that § 87(2)(b) would not let the officers handcuff him. At one point, with one hand cuffed, he swung this hand at the officers, and PO Kahveci, fearing that this could cause injury to himself and the other officers, administered a compliance strike to § 87(2)(b) stomach, allowing the officers to complete handcuffing him [BR16].

PO Kalinowski testified that, upon arriving on scene, he and PO Bottcher spoke with § 87(2)(b). He did not recall issuing any commands, aside from telling § 87(2)(b) to sit down, which he refused to do. § 87(2)(b) then spit, kicked, and punched at PO Kalinowski. PO Kalinowski grabbed § 87(2)(b) by the arms but did not know if PO Bottcher or any other officer assisted him in this. § 87(2)(b) kicks connected with PO Kalinowski, but PO Kalinowski could not recall who else § 87(2)(b) kicked. PO Kalinowski did not punch § 87(2)(b) place pressure on his head, or place his knees into his back at any point. He did not see any officers take

these actions. PO Kalinowski did not know who handcuffed § 87(2)(b) [BR17].

PO Bottcher § 87(2)(g) testified that he assisted PO Kalinowski in grabbing § 87(2)(b) by the arms to handcuff him, which he stated was for his own safety. § 87(2)(b) flailed his arms, kicked and spat on both officers. He stated that either he or PO Kalinowski handcuffed § 87(2)(b). He did not punch § 87(2)(b) place pressure on his head, or place his knees into his back at any point; he did not recall if any other officer did this [BR18]. The AIDED report prepared by PO Bottcher noted that § 87(2)(b) had a piece of glass, which he used to cut himself, and resisted going to the hospital by kicking, spitting, biting, head butting, and punching officers [BR19].

PO Manni testified that after § 87(2)(b) refused to sit down for transportation, he, PO Kalinowski, PO Bottcher, and PO Kahveci all attempted to handcuff § 87(2)(b) by grabbing his arms. § 87(2)(b) pulled his arms towards his chest and kicked at the officers. At one point, § 87(2)(b) moved his arm out of PO Manni's grasp, and continued to move back and forth, waving his arms. Eventually, the officers were able to handcuff § 87(2)(b). PO Manni did not recall if any officers used any additional force aside from grabbing § 87(2)(b) arms [BR20].

Footage from PO Bottcher's BWC shows that he, PO Kalinowski, PO Kahveci, and PO Manni attempted to handcuff § 87(2)(b) from 00:00 minutes to 02:11 minutes. The officers attempt to handcuff § 87(2)(b) by grabbing his arms, and in response, he flails his arms and kicks at the officers. § 87(2)(b) is handcuffed at 01:16 minutes. § 87(2)(b) then spits at the officers, to which PO Bottcher places his arm across § 87(2)(b) face and tells him to stop spitting. At 1:50 minutes, he removes his arm from § 87(2)(b) face and one of the officers places a spit guard mask on him. § 87(2)(b) continues to move his head and body, and officers tell him to stop resisting. At the 3:00 minute mark, the officers move § 87(2)(b) to the stretcher inside the ambulance, where they hold him down as they strap him in [BR09]. The BWC from PO Kahveci, PO Kalinowski, and PO Manni largely captures what PO Bottcher's captures [BR04, BR06, BR10, respectively]. While none of the BWC footage shows PO Kahveci hitting § 87(2)(b) at 1:40 minutes in PO Bottcher's BWC, he acknowledges using compliance strikes [BR09]. Additionally, none of the BWC footage captures officers placing their knees on § 87(2)(b) back. Upon viewing PO Kalinowski's BWC, PO Bottcher contested that he placed his hand on § 87(2)(b) shoulder, not his neck, but did not provide any additional statements as to why he took this action [BR06].

According to Patrol Guide Procedure 221-13, if an emotionally disturbed person is a danger to himself or others, force may be used when it is reasonable to prevent serious physical injury or death. Members of service will use only the reasonable force necessary to gain control or custody of a subject [BR21].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: An officer threatened to arrest § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Christopher Kalinowski threatened to arrest § 87(2)(b)

It is undisputed that PO Kalinowski threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that as the officers attempted to handcuff § 87(2)(b) he moved closer towards the ambulance to observe the interaction. When PO Kahveci struck § 87(2)(b) § 87(2)(b) cursed at the officers. PO Simon then told him to stand back. He then heard an officer say, “Back up, get out the way, don’t interfere or you could get locked up”, but did not know which officer inside the ambulance said this. § 87(2)(b) continued to stand by the ambulance and cursed out the officers. After the officers exited the ambulance, PO Kalinowski informed § 87(2)(b) that he could arrest him for obstruction [BR22].

EMT § 87(2)(b) did not recall what § 87(2)(b) and the officers said to each other during the incident. He testified that an officer told § 87(2)(b) to “back up” and threaten to arrest § 87(2)(b) if he interfered but did not know which officer said this. He later heard PO Kalinowski tell § 87(2)(b) that he would be arrested if he continued “to behave the way he was” but did not recall if PO Kalinowski stated what he could have been arrested for [BR13]. EMT § 87(2)(b) did not hear any officer threaten to arrest § 87(2)(b) [BR14].

PO Kalinowski testified that while he and the other officers were handcuffing § 87(2)(b) § 87(2)(b) stood outside the ambulance. When § 87(2)(b) moved within an arm’s length of PO Kalinowski, while remaining outside the ambulance, he told § 87(2)(b) to back up. He did not recall if he or any other officer told § 87(2)(b) that if he interfered, he could be arrested. He did not recall if, after restraining § 87(2)(b) he or any other officer threatened to arrest § 87(2)(b) for obstruction of government administration [BR17].

PO Bottcher did not recall if he or PO Kalinowski had any interaction with § 87(2)(b) while they were in the ambulance. He did not recall if he or PO Kalinowski told § 87(2)(b) to back up or if either of them specifically mentioned an arrest. He believed that § 87(2)(b) s actions did not justify an arrest [BR18]. PO Manni did not hear any officer threaten to arrest § 87(2)(b) [BR20].

At 1:08 minutes of PO Kalinowski’s BWC, an officer is heard telling PO Simon to get § 87(2)(b) to step back. At 1:22 minutes, an officer again tells § 87(2)(b) to back up. The investigation could not determine which officer said this [BR06].

PO Kalinowski’s BWC footage also captures him pulling § 87(2)(b) away from the entrance of the ambulance at 00:19 minutes. PO Kalinowski then enters the ambulance. At 00:45 minutes, one of the EMTs, says, “Please don’t touch me, sir”, referring to § 87(2)(b). It is not shown what § 87(2)(b) is doing. At 00:47 minutes, PO Kalinowski responds, “You’re going to get arrested for OGA, do you understand?” [BR07]. Upon viewing the footage, PO Kalinowski was unable to identify the voice, but stated that the footage refreshed his recollection that § 87(2)(b) was not allowing an EMT to enter the ambulance [BR17]. PO Bottcher was shown the same footage and identified the voice at 00:47 minutes as PO Kalinowski’s. PO Bottcher stated that PO Kalinowski was not threatening § 87(2)(b) but informing him that he would be arrested if he did not move out of the way of an emergency vehicle [BR18]. Cellphone footage taken by § 87(2)(b) shows PO Kalinowski and an EMT telling § 87(2)(b) to back away from the ambulance, and PO Kalinowski explains to § 87(2)(b) that he will be arrested for OGA if he does not move away from the ambulance [BR03].

As per NY CLS § 195.05, a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function [BR23].

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Discourtesy: Police Officer Huseyin Kahveci acted discourteously toward

§ 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Matthew Bottcher refused to provide his name to § 87(2)(b)

Allegation (J) Abuse of Authority: Police Officer Matthew Bottcher refused to provide his shield number to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) testified that after the officers exited the ambulance, he asked the officers in a group for their name and shield numbers, which he recorded himself doing. He also stated that he asked two officers, determined by the investigation to be PO Bottcher and PO Kahveci individually for their name and shield numbers. After he requested this information, PO Kahveci held his business card a couple of inches above § 87(2)(b)'s head. § 87(2)(b) responded, who has a physical disability, "Am I that tall? I'm disabled. You know I can't reach that", and then retrieved the business card. The officers then returned to their vehicle and § 87(2)(b) followed them. PO Kalinowski then provided his business card. The officers then left the scene. [BR22].

Cellphone footage recorded by § 87(2)(b) shows that PO Kahveci provided his business card to § 87(2)(b). He holds it at an elevated angle, so that it appears to be at § 87(2)(b)'s head level rather than his chest level. However, it is unclear how high he holds it, as the recording did not capture this. § 87(2)(b) is heard saying, "Am I that tall?", although he did not mention a disability. He is seen reaching up, but it is unclear how far he had to reach [BR02]. The investigation could not obtain a statement from PO Kahveci, as he had resigned from the NYPD.

PO Bottcher stated he did not recall § 87(2)(b) asking for his name or shield number [BR18]. PO Kalinowski testified that he provided his name and shield number to § 87(2)(b) but did not recall if PO Bottcher or any other officer on scene did so [BR17]. PO Manni testified that § 87(2)(b) stated he needed the names and shield numbers of all the officers on scene, and that he and the officers in the ambulance provided their business cards [BR20].

§ 87(2)(b)'s cellphone footage shows § 87(2)(b) requesting the names and shield numbers of all the officers as a group. At 00:21 minutes, he specifically requests the name and shield number from PO Bottcher, who verbally acknowledges hearing § 87(2)(b) but does not provide his information [BR02]. At no point in § 87(2)(b)'s cellphone footage or the officers' BWC does it show PO Bottcher providing his information [BR04 through BR10, respectively]. After watching the cellphone footage, PO Bottcher did not acknowledge seeing himself on the video and stated that the video did not refresh his recollection and he had no other statement regarding the incident [BR18].

As per Patrol Guide Procedure 203-09, members of service are required to courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests they do so [BR24].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint § 87(2)(b) and § 87(2)(b) have been party to [BR26 and BR26, respectively].
- PO Bottcher has been a member of service for three years and has been party to one other CCRB complaint and two allegations, neither of which were substantiated. § 87(2)(g)
- PO Kalinowski has been a member of service for three years and has not been a subject in any prior CCRB complaints. § 87(2)(g)
- PO Manni has been a member of service for 13 years and has been a subject in three CCRB complaints and six allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of February 7, 2020, neither § 87(2)(b) nor § 87(2)(b) have filed a Notice of Claim regarding this incident [BR28].

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date